

Appl. No. : 09/988,728
Filed : November 16, 2001

REMARKS

Claims 1, 8 and 17 have been amended by this paper and new Claims 38 and 39 have been added. Accordingly, Claims 1-22 and 30-39 are presented for further examination.

The specific changes to the specification and the amended claims are shown in the above section entitled IN THE CLAIMS. On this set of pages, the insertions are underlined while the ~~deletions are stricken through~~.

Discussion of Claim Rejections Under 35 U.S.C. § 112, ¶ 2

In the Office Action mailed November 2, 2005, Claims 1-22 and 30-37 were rejected under 35 U.S.C. § 112, ¶ 2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, the Examiner stated that "Claim 1 recites the limitation 'the specific immunotyping assay to be conducted' in lines 14-16. There is insufficient antecedent basis for this limitation in the claim."

By this paper, Applicant has amended Claim 1 to remove the above-quoted language. Accordingly, Applicant respectfully submits that the rejection of Claim 1 under 35 U.S.C. § 112 is overcome. Further, Applicant respectfully submits that since Claims 2-22 and 30-37 were rejected under 35 U.S.C. § 112, ¶ 2, only because they depend from Claim 1, these claims also now satisfy the requirements of that section. Accordingly, Applicant respectfully requests that the rejection of Claims 1-22 and 30-37 under 35 U.S.C. § 112, ¶ 2, be withdrawn.

Discussion of Obviousness-Type Double Patenting

Claims 1-22 and 30-37 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-10 and 13-46 of copending Application No. 10/233,322 and in view of Sheppard, Jr. et al. (US Patent No. 6,143,247, hereinafter "Sheppard"). Since this rejection is provisional, Applicant respectfully requests deferral of this issue until the rejection becomes non-provisional.

Discussion of Claim Rejections Under 35 U.S.C. §§ 102(e) and 103(a)

In the Office Action, Claims 1-9, 12-15, 17-21, 30, 31, and 34-37 were rejected under 35 U.S.C. § 102(e) as being anticipated by Sheppard. Claims 10, 11 and 22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sheppard in view of Sizto, et al. (US Patent No. 5,962,238, hereinafter "Sizto"). Furthermore, Claims 16, 32 and 33 were also rejected under 35

Appl. No. : **09/988,728**
Filed : **November 16, 2001**

U.S.C. § 103(a) as being unpatentable over Sheppard in view of Sizto in combination with several other references.

Applicant respectfully submits that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *See* M.P.E.P. Section 2131. Furthermore, to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *See* M.P.E.P. Section 2143.03.

Applicant respectfully submits that Sheppard fails to teach or suggest at least one limitation from each of the above-listed claims. For example, Claim 1, as amended, recites: “graphically displaying in a plurality of distinct regions non-numeric representations of count information for different capture zones.” As a non-limiting example, Figure 11 of the application illustrates subject matter in a display produced by graphically displaying in a plurality of distinct regions non-numeric representations of count information for different capture zones.

Applicant respectfully submits that the cited prior art wholly fails to teach or suggest the above-limitations. In particular, Sheppard wholly fails to teach or suggest graphically displaying in a plurality of distinct regions non-numeric representations of count information for different capture zones. Sizto also clearly neither teaches nor suggests such a feature. Furthermore, the other references cited by the Examiner in the pending Office Action also fail to teach or suggest at least such a limitation. Accordingly, Applicant respectfully submits that Claim 1 defines subject matter which is patentable over the art of record. Claims 2-22 and 30-37 each depend from Claim 1. Accordingly, for at least the reasons set forth above with respect to Claim 1, Applicant respectfully submits that Claims 2-22 and 30-37 also define subject matter which is patentable over the art of record.

New Claims 38 and 39 define additional features which are neither taught nor suggested by the references of record. In addition, new Claims 38 and 39 each depend from Claim 1. Accordingly, for at least the reasons set forth above with respect to Claim 1, Applicant respectfully submits that Claims 38 and 39 also define subject matter which is patentable over the art of record.

Appl. No. : **09/988,728**
Filed : **November 16, 2001**

In view of the foregoing, Applicant respectfully submits that Claims 1-22 and 30-39, as presented herein, define subject matter that is patentable over the art of record. Accordingly, Applicant respectfully submits that Claims 1-22 and 30-39 are now in condition for immediate allowance and such prompt allowance of the same is respectfully requested.

CONCLUSION

The Applicant has endeavored to address all of the concerns of the Examiner in view of the recent Office Action directed to the above-identified application. Accordingly, amendments to the claims, the reasons therefor and arguments in support of the patentability of the pending claims are presented above.

Any claim amendments which are not specifically discussed in the above remarks are not made for patentability purposes, and it is believed that the claims would satisfy the statutory requirements for patentability without the entry of such amendments. Rather, these amendments have only been made to increase claim readability, to improve grammar, and to reduce the time and effort required of those in the art to clearly understand the scope of the claim language. Any new claims presented above are of course intended to avoid the prior art, but are not intended as replacements or substitutes for any cancelled claims. They are simply additional specific statements of inventive concepts described in the application as originally filed.

In light of the above amendments and remarks, reconsideration and withdrawal of the outstanding rejections is specifically requested. If the Examiner finds any remaining impediment to the prompt allowance of these claims that could be clarified with a telephone conference, the Examiner is respectfully requested to initiate the same with the undersigned.

Appl. No. : 09/988,728
Filed : November 16, 2001

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: May 2, 2006

By: Drew S. Hamilton
Drew S. Hamilton
Registration No. 29,801
Attorney of Record
Customer No. 20,995
(619) 235-8550

2055487
110905